IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 11063 of 2007(P)

PETITIONER:

P.SATHYAN, AGED 48 YEARS,
S/O. P.V.PURUSHOTHAMAN, NIKARATHIL HOUSE,
KOCHUPALLY ROAD, COCHIN-682 005.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, CO-OPERATIVE DEPARTMENT,
THIRUVANANTHAPURAM.

2. JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), ERNAKULAM.

3. ERNAKULAM CO-OPERATIVE BANK LIMITED,
REPRESENTED BY ITS MANAGER, KAKKANAD.

R1 & R2 BY GOVERNMENT PLEADER (SHRI P.K. RAVIKRISHNAN)

R3 BY ADV. SRI.P.V.SURENDRANATH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.(C). NO.11063 OF 2007 P

PETITIONER'S EXHIBITS:

EXT.P1 **TRUE COPY OF THE LETTER DATED 14.10.2005 ISSUED BY THE THIRD RESPONDENT.**

EXT.P2 **TRUE COPY OF THE LETTER DATED 6.12.2005 ISSUED BY THE THIRD RESPONDENT.**

EXT.P3 **TRUE COPY OF THE PETITION DATED 5.12.2005 SUBMITTED BY THE PEETITIONER BEFORE THE THIRD RESPONDENT.**

EXT.P4 **TRUE COPY OF THE LETTER DATED 22.3.2004 SUBMITTED BY THE PETITIONER BEFORE THE THIRD RESPONDENT.**

EXT.P5 **TRUE COPY OF THE PETITION DATED 15.3.2007 SUBMITTED BY THE PETITIONER BEFORE THE HONOURABLE MINISTER FOR CO-OPERATIVE SOCIETIES.**

EXT.P6 **TRUE COPY OF THE PETITION DATED 17.3.2007 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.**

EXT.P7 **TRUE COPY OF THE ACKNOWLEDGMENT CARD.**

// TRUE COPY//

PS TO JUDGE

K. M. JOSEPH, J.

W.P.C. NO. 11063 OF 2007 P

Dated this the 2nd August, 2007

JUDGMENT

Case of petitioner, in brief, is as follows:

Petitioner availed a loan of Rs.25 Lakhs from the third respondent Bank, for the purpose of constructing a Shopping Complex. But, the amount was not repaid in time. He has remitted some amount. Action is taken under the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, stating that a total amount of Rs.40,45,345/= is due from the petitioner. According to petitioner, he has approached the Bank for the benefit of One Time Settlement Scheme and it is submitted that he was informed that the facilities under the OTS Scheme applicable in respect of the Co-operative Societies loans can be extended in the case of the petitioner also. It is stated that the petitioner was making earnest efforts to sell the property. Since there were some lessees occupying the land, there was some dispute with

them, and the petitioner was not getting any other income by way of rent also, it is stated. The respondent Bank is not willing to settle the loan account by giving the benefits of OTS and they are demanding huge interest.

2. A detailed Counter Affidavit has been filed by the third respondent stating, inter alia, that the petitioner is getting huge amount as rent from the Shopping Complex constructed and let off. It is stated that now an amount of Rs.31,17,539/= is due to the Bank with interest from 7.7.2007.

3. I heard the learned counsel appearing for the parties. Learned counsel for petitioner submits that petitioner is prepared to pay off the amount in three months' time, but he may be given the benefits to which he is entitled to. He submits that the petitioner has already filed a representation before the Joint Registrar. Counsel for the respondent Bank, on the other hand, points out that the petitioner has not approached the Bank. Of course, this is disputed by the petitioner. In such circumstances, the Writ Petition is disposed of as follows:

If the petitioner files a representation before the third respondent within a period of two weeks from today and also deposits a sum of Rs.4,00,000/= (Rupees Four Lakhs) along with the representation, a decision will be taken thereon by the third respondent and the third respondent will grant such benefits that the petitioner is entitled to in law. A decision will be taken within a period of two weeks from the date of receipt of the representation, provided the amount is also deposited. If the petitioner applies with the deposit, the recovery proceedings shall be kept in abeyance till a decision is taken. At any rate, the proceedings will be kept in abeyance for a period of two weeks from today. I make it clear that if the petitioner is ultimately aggrieved by the decision, it will be open to the petitioner to seek remedy in the appropriate forum.

K. M. JOSEPH, JUDGE

kbk.